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C O N F I D E N T I A L SECTION 01 OF 02 SANAA 000323

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SUBJECT: WATANI BANK CASE UNEARTHS PERVASIVE CORRUPTION

REF: 2005 SANAA 3609

Classified By: Ambassador Thomas C. Krajeski for reasons 1.4 (b) and (d).

1. (C) SUMMARY: The Central Bank announced its plan to liquidate Watani Bank. The decision is being appealed, but there appears to be little hope of rescuing the failed financial institution. Watani's Amcit General Manager, Dr. Hamdani, and seven others are being tried in Yemen's Specialized Penal Court for crimes in connection to the bank's collapse. The DCM visited the Attorney General to inquire about Hamdani's prison conditions, and received promises that he would be treated well. The case has opened a window into both public and private sector corruption in Yemen, making clear that Watani was the rule and not the exception. END SUMMARY.

Central Bank Decides to Liquidate

2. (U) The Central Bank of Yemen (CBY) announced on January 31 that it planned to liquidate Watani Bank. The decision was temporarily suspended by the Sanaa commercial court, pending settlement of a counter-suit by Watani's lawyers. The bank's legal team argues that the CBY did not have legal standing when it took control of Watani, and violated the Banking Law in its procedures. Dr. Olafi, CBY Sub-Governor for Banking Supervision, countered that the liquidity problems left the ROYG no choice but to close Watani, and that a full audit by the independent accounting firm Deloitte and Touche revealed that Watani could not be saved. The case has now spiraled into a series of suits and counter-suits, with the CBY encouraging depositors, including the Ministries of Justice and Health and the Cigarettes and Tobacco Company, to file their own charges against Watani.

3. (U) February 5 marked the second day of criminal hearings for Dr. Ahmad Hamdani, former General Manager of Watani, and seven co-defendants from Watani's board of directors. Two members of the board are being tried in absentia after fleeing arrest (one to Cairo, the other to his tribe), and another received automatic immunity as a member of the Shura Council. Judge Nagib Qaderi adjourned the session early, after repeated interruptions by the prosecution. Qaderi also insisted that the defense be granted access to key documents relating to the case, after the prosecution claimed it did not have a working photocopy machine to provide the materials.

Claims of Abuse in Prison

4. (C) The DCM met Attorney General Ali al-Olafi January 30 to discuss the case. The Hamdani family has repeatedly complained to post that Dr. Hamdani, an Amcit, has been mistreated in prison. Bail was set for Dr. Hamdani at the prohibitive sum of YR 47 billion (USD 241 million), equivalent to the bank's total outstanding loans. His family has complained that prison guards refuse to allow them to visit or to deliver food and medication. Hamdani's lawyers claim they have not been able to consult with their client. Embassy consular officials were promptly given access when Hamdani was first arrested. A follow-up visit the week of February 6 was refused at the prison level, however, and the matter was referred directly to the AG's office. The AG assured the DCM that the case was being prosecuted according to the law, and promised to investigate and correct any cases of mistreatment. (NOTE: In the criminal investigations prison where he is being held, the authorities do not provide prisoners with regular meals. END NOTE).

5. (U) Hamdani and Watani's board of directors face official charges of "dishonesty, unsecured lending, mismanaging deposits, and damaging the national economy." The defendants are also accused of embezzling a total of YR 19.8 billion (USD 101.5 million), and of insider lending at reduced interest rates. Dr. Hamdani is also accused of bribing a tax collector (also on trial) and lending himself YR 611 million (over USD 3 million) from bank deposits.

Hamdani a Scapegoat for "Business as Usual" in Yemen

16. (C) In general, the Hamdani family does not so much deny the charges as insist that Dr. Hamdani is being unfairly scapegoated for what amounts to business as usual in Yemen. Dr. Hamdani's wife admitted that Watani loaned to its own management and board of directors, but countered that this true of all commercial banks in Yemen. "Unlike other borrowers," said Mrs. Hamdani, "my husband is paying the money back." Hamdani's uncle claimed that all businesses in Yemen cut deals with tax collectors out of necessity, or else face retribution from the Tax Authority. He also admitted that many of Watani's loans were unsecured, but added that they were made to some of the most powerful figures in Yemen, including Northwest Military Commander Ali Mohsen. (NOTE: Bankers often do not have much of a choice when it comes to providing loans to Yemen's powerful elite, many of which end up non-performing. END NOTE).

17. (U) The defense further contends that Dr. Hamdani should not be tried in the Specialized Penal Court, generally reserved for cases of terrorism and national security. Hamdani's lawyers believe this is essentially a commercial matter, without any connection to public institutions or property. The lawyers contend that the AG chose to try Hamdani for security crimes, because under the Banking Law, sentences are limited to one year. They also accused the AG of over-reaching his power in freezing the assets of Dr. Hamdani's relatives, a point the AG eventually conceded by releasing the frozen assets.

18. (C) COMMENT: The CBY's decision to close Watani, although regrettable, was probably the only remaining course of action, given the bank's total financial collapse. Dr. Hamdani and his co-defendants, by their own admission, are guilty of at least some of the charges against them. At the same time, the case has opened a window into the pageant of corruption that is Yemen's business environment. Illegal practices, such as insider lending, are widespread in Yemen's financial sector and at least three other commercial banks are thought to face similar liquidity problems. The Tax Authority is widely regarded as one of the most dysfunctional ROYG agencies, and most businessmen confess that bribing tax collectors is a part of doing business. Powerful ROYG and military officials use their influence to obtain favorable loans and contracts, without any obligation to abide by the law. Dr. Hamdani is likely no better or worse than other businessmen, but was left holding the bag when the shell game that was Watani Bank finally came to an end. END COMMENT.
Krajeski